

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

WINTERFIELD UNITED METHODIST
CHURCH,
Plaintiff,

vs.

CHURCH MUTUAL INSURANCE
COMPANY,
Defendant.

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CIVIL ACTION NO. 6:23-cv-00558

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant Church Mutual Insurance Company, S.I. (“Defendant”) hereby removes the action styled and numbered *Winterfield United Methodist Church v. Church Mutual Insurance Company*; Cause No. 2023-1781-B, pending in the 124th District Court of Gregg County, Texas to the United States District Court for the Eastern District of Texas, Tyler Division. For the reasons set forth below, removal of the state court action is proper under 28 U.S.C. §§ 1332, 1441, and 1446.

I.
INTRODUCTION

1. On October 12, 2023, Winterfield United Methodist Church (“Plaintiff”) filed its Original Petition in the 124th District Court of Gregg County, Texas; Cause No. 2023-1781-B against Defendant.

2. Defendant was served with Plaintiff’s Original Petition on October 13, 2023. Accordingly, Defendant timely files this Notice of Removal within the 30-day time period required by 28 U.S.C. Section 1446(b)(2)(B).

II.
VENUE IS PROPER

3. Venue is proper in the United States District Court for the Eastern District of Texas, Tyler Division, under 28 U.S.C. §§ 124(c)(1) and 1441(a) because this district and division embrace the place in which the removed action has been pending.

III.
BASIS FOR REMOVAL

4. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in a state court and the federal courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332.

5. Removal is proper because there is now, and was at the time this action was filed, complete diversity of citizenship between Plaintiff and Defendant, and the amount in controversy exceeds \$75,000 excluding interest and costs.

A. Removal is proper because complete diversity of citizenship exists between Plaintiff and Defendant.

6. Plaintiff Winterfield United Methodist Church is a religious entity incorporated in the State of Texas with its principal place of business in Gregg County, Texas. Plaintiff is thus a citizen of Texas for diversity jurisdiction purposes.

7. Defendant Church Mutual Insurance Company, S.I. is an insurance carrier organized under the laws of the State of Wisconsin, with its principal place of business in Wisconsin. Defendant is thus a citizen of Wisconsin for diversity jurisdiction purposes.

8. Based on the foregoing, there is now, and was at the time this action was filed, complete diversity of citizenship between Plaintiff and Defendant.

B. Removal is proper because it is facially apparent that Plaintiff's claims exceed \$75,000.

9. If it is facially apparent that Plaintiff's claims exceed the jurisdictional amount, Defendant's burden is satisfied.¹

10. Here, Plaintiff's Original Petition states that Plaintiff seeks "monetary relief over \$250,000 but not more than \$1,000,000."² It is thus facially apparent that Plaintiff's claims exceed this Court's jurisdictional threshold of \$75,000.

11. Because there is complete diversity among the parties and the amount in controversy requirement is satisfied, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a). Removal is therefore proper.

IV.

COMPLIANCE WITH 28 U.S.C. § 1446 AND LOCAL RULE CV-81

12. As required by 28 U.S.C. § 1446(a) and Local Rule CV-81, a copy of the docket sheet in the state court action and all pleadings, orders, and filings are attached to (or filed with) this Notice of Removal:

- A. a list of all parties in the case and their party type, attached as Exhibit A to this Notice of Removal;**
- B. a civil cover sheet, attached as Exhibit B to this Notice of Removal;**
- C. a copy of the state court docket sheet, attached as Exhibit C to this Notice of Removal;**
- D. a copy of Plaintiff's Original Petition, attached as Exhibit D to this Notice of Removal;**
- E. a copy of the Request for Issuance of Citation on Church Mutual, attached as Exhibit E to this Notice of Removal,**

¹ *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

² Exhibit D, Plaintiff's Original Petition, at ¶ 5.

F. a copy of the Return of Service of Process on Church Mutual, attached as Exhibit F to this Notice of Removal,

G. a copy of Church Mutual's Answer and Affirmative Defenses, attached as Exhibit G to this Notice of Removal;

H. a List of Attorneys involved in the action, attached as Exhibit H to this Notice of Removal;

I. a record of which parties have requested trial by jury attached as Exhibit I to this Notice of Removal; and

J. the name and address of the court from which the case is being removed, attached as Exhibit J to this Notice of Removal.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of filing this Notice will be given to all adverse parties promptly after filing.

14. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of this Notice will be promptly filed with the clerk of the 123rd District Court of Panola County, Texas.

**V.
JURY DEMAND**

15. Plaintiff demanded a jury trial in its Original Petition.

**VI.
CONCLUSION**

WHEREFORE, Defendant Church Mutual Insurance Company, S.I., requests that this action be removed from the 124th Judicial District Court of Gregg County, Texas, to the United States District Court for the Eastern District of Texas, Tyler Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

By: /s/ Lindsey P. Bruning
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing has been served on the following counsel of record in accordance with the FEDERAL RULES OF CIVIL PROCEDURE on this 13th day of November 2023:

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